

CWP No.23320 of 2015

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

CWP No.23320 of 2015
Date of decision: 02.11.2015

Shri Gow Rakshni Sabha, Ludhiana

....Petitioner

Versus

Ludhiana Municipal Corporation, Ludhiana and others

....Respondents

CORAM: HON'BLE MR. JUSTICE PARAMJEET SINGH

- 1) Whether Reporters of the local papers may be allowed to see the judgment ?
- 2) To be referred to the Reporters or not ?
- 3) Whether the judgment should be reported in the Digest ?

Present: - Mr. Nitin Thatai, Advocate, for the petitioner.

PARAMJEET SINGH, J. (ORAL)

Instant writ petition under Articles 226/227 of the Constitution of India has been filed for issuance of a writ in the nature of mandamus directing respondent No.1 for demolishing shop shown in green colour at point "A" and room shown in orange colour marked with point "B" in the site plan (Annexure P-6) and the photographs (Annexure P-7 Colly) in terms of notice of demolition dated 27.06.2014 (Annexure P-3) issued by respondent No.1 to the petitioner under Section 273 of the Punjab Municipal Corporation, Act, 1976.

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I have heard learned counsel for the petitioner and perused the record.

Learned counsel for the petitioner contends that respondent No.1 has already issued notice to the petitioner under Section 273 of the Punjab Municipal Corporation Act, 1976 for demolition of the building in question stated to be in dilapidated condition and likely to fall any time. In spite of issuance of notice dated 27.06.2014, no action has been taken.

I have considered the contention raised by learned counsel for the petitioner.

It appears to be a dispute between petitioner-landlord and tenants. Petitioner has already approached the Rent Controller by way of petition under Section 13 of the East Punjab Urban Rent Restriction Act, 1949 for eviction of the tenants. Once the matter is pending before the civil Court, question of issuance of direction to Municipal Corporation to demolish the building in question does not arise. So far as dilapidated condition of the building/shop is concerned, it is yet to be determined whether the structure is likely to fall. This Court cannot go into merits of the case nor can determine whether building is in dilapidated condition, although, photographs annexed with the petition show part of the building to be temporary structure.

Hon'ble Supreme Court in ***A.P.S.R.T.C. and others v. G. Srinivas Reddy and others***, 2006(3) SCC 674 has held as under: -

“13.5) There are also several instances where unscrupulous petitioners with the connivance of 'pliable' authorities have misused the direction 'to consider' issued by court. We may illustrate by an example. A claim, which is stale, time-barred or untenable, is put forth in the form of a representation. On the ground that the authority has not disposed of the representation within a reasonable time, the person making the representation approaches the High Court with an innocuous prayer to direct the authority to 'consider' and dispose of the representation. When the court disposes of the petition with a direction to 'consider', the authority grants the relief, taking shelter under the order of the court directing him to 'consider' the grant of relief. Instances are also not wanting where authorities, unfamiliar with the process and practice relating to writ proceedings and the nuances of judicial review, have interpreted or understood the order 'to consider' as directing grant of relief sought in the representation and consequently granting reliefs which otherwise could not have been granted. Thus, action of the authorities granting undeserving relief, in pursuance of orders to 'consider', may be on account of ignorance, or on account of bona fide belief that they should grant relief in view of court's direction to 'consider' the claim, or on account of collusion/connivance between the person making the representation and the authority deciding it. Representations of daily wagers seeking regularization/absorption into regular service is a species of cases, where there has been a large scale misuse of the orders 'to consider'.”

Since disputed facts are involved and matter is already pending before the civil Court, no interference is called for in writ jurisdiction. It

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appears to be frivolous petition and is liable to be dismissed with exemplary costs. However, as the petitioner is a Gowshala, therefore, this Court is refraining itself from imposing the costs.

Dismissed in limine.

November 02, 2015
R.S.

(Paramjeet Singh)
Judge